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Progress Report: Women and People of Color in Legal Education and the Legal Profession *

Valerie Fontaine **

Introduction

Formal barriers to entering legal education and the legal profession have crumbled over the past twenty-five years, but serious problems of gender and racial bias remain. Although the numbers of women and people of color who are law students, professors, and practitioners have increased dramatically, equal access across gender and racial lines to educational and work opportunities will require institutional and perceptual change in schools and the workplace. Today's problems may be more subtle than earlier issues of explicit and intentional sexual and racial discrimination, but they are just as real.

Although female law students have achieved near parity with males in numerical terms, recent studies indicate that significant qualitative barriers to their equal educational opportunity persist. And, even though non-white enrollment in law school has increased in past decades, people of color remain severely underrepresented. In addition, the number of female and non-white law school faculty members is growing, but the attainment of tenure remains elusive to many, as they are "ghetto-ized" at the lower echelons of the academic hierarchy.

One of the many dramatic changes which has swept the legal profession over the past twenty-five years has been the growing number of

* I have not used the term "minority" to describe people of color for a several reasons. First, the term is offensive to some people of color. Second, there are other groups which can, or should, be considered "minorities" — those with mental or physical disabilities, those from cultures vastly different than American mainstream culture, those for whom English is not their first language, and so forth. The scope of this article is limited to a discussion of women and people of color only; thus I use the terms "people of color," and "non-white" in an effort to be more precise, and to reduce the numbers of those offended by my choice of language.

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women and people of color entering the practice of law. However, while law practice no longer is the exclusive province of white males, women and people of color as yet have not gained the levels of power and influence that their increasing numbers might suggest. Statistics regarding the rapid influx of women into the legal profession contrast sharply with the slow growth in the ranks of lawyers of color. Despite the fact that the number of women attorneys has increased sharply, they still lack representation in the top tiers of the profession, and lawyers of color lag even further behind.

I. Education

A. WOMEN

Women have been flocking to law school in ever-increasing numbers in recent decades. Women comprised less than 5% of the nation's law students in the 1960s, 26% by the mid-1970s, and 40% by the mid-1980s.¹ At Hastings College of the Law in San Francisco, the enrollment is almost evenly split between men and women, with women outnumbering men in at least two of the past six years.²

Despite the dramatic growth in enrollment, women now may face a secondary level of discrimination that is inherent in the very nature of legal education as it currently exists. Recent studies of law school culture by the University of Pennsylvania, the Ohio Bar Association, the Chicago Bar Association Alliance, and the Law School Admissions Council, confirming earlier studies at Stanford, Berkeley, Yale, and Harvard, show that men do better in law school than women due to the traditional Socratic method of teaching, the adversarial environment, the overwhelmingly male faculty, and the lack of mentoring for female students.³ As a result, male students are three times more likely than women to be in the top 10% of their classes, and are more likely to make law review and become editors of law reviews.⁴ Women's self-esteem is seriously eroded in the process: 40% of female law students interviewed in one study felt that they were less intelligent and articulate than they were when they entered law school.⁵ These studies are sparking debate about the need for a "plurality of

1. ABA COMM. WOMEN IN THE PROFESSION, WOMEN IN LEGAL EDUCATION, (1988) [hereinafter ABA Report].

2. Hastings College of the Law Admissions Brochure, 1994.

3. Linda R. Hirshman, *Women at Law Schools Dissed, Disadvantaged*, NAT'L L.J., Apr. 10, 1995, at A19; Dan Lee, *The Gender Gap, Lani Guinier Tackles the Problems Women Face at Law School*, L.A. DAILY J., Mar. 30, 1995, at 1; Lani Guinier, Michelle Fine, & Jane Balin, *Becoming Lawyers and Gentlemen: The Hostile Learning Environment for Women in America's Top Law Schools*, LEGAL TIMES, Mar. 13, 1995, at 30 [hereinafter Guinier].

4. Hirshman, *supra* note 3, at A19; Lee, *supra* note 3, at 1.

5. Hirshman, *supra* note 3, at A19; Lee, *supra* note 3, at 1; Guinier, *supra* note 3, at 30.

teaching styles," including those that favor women's socialization and more conciliatory style.⁶

The Chicago Bar Association Alliance Report made several recommendations intended to ameliorate the more subtle forms of discrimination. The Report advocated hiring more women faculty for tenure-track positions; having at least one core first semester course taught by a woman; teaching feminist jurisprudence and including issues of interest to women in traditional courses; putting students through orientation programs to heighten awareness of gender bias; addressing female students courteously and by name; taking a strong stand on sexual harassment; and ensuring campus security so women are not forced to limit their participation after dark.⁷

As these studies show, "it is not enough to just add women and stir."⁸ True equality of education opportunity will require fundamental changes in teaching practices, institutional policies, and the political organization of legal education.⁹

B. PEOPLE OF COLOR

The types of changes suggested above would serve to advance the interests of non-white law students as well. In 1979, when the American Bar Association (ABA) required its approved schools to adopt affirmative action plans, 8% of law students were people of color. By 1989 that number increased to 13%,¹⁰ and now people of color comprise 16.6% of all law school enrollments.¹¹ Even though applications to law schools have declined overall, applications from people of color continue to increase.¹²

At U.C.L.A. School of Law, 40% of each student body is comprised of "diversity" students. These include students of all races who have a significant work history, have overcome economic disadvantage, or whose achievements would contribute to the school's diversity. From 1978 to 1994, U.C.L.A. Law School's non-minority student population has decreased from 77.2% to 54%, and no one racial group makes up more than 50% of its class of 1997.¹³

6. Guinier, *supra* note 3, at 30; Ken L. Myers, *Study of Gender Difference Finds 1-L Women Draw Lower Grades*, NAT'L L.J., Jan. 30, 1995, at A17.

7. Hirshman, *supra* note 3, at A19.

8. Guinier, *supra* note 3, at 30.

9. *Id.*

10. Paula A. Patton, *Faculty and Student Body Changing Shape*, NAT'L L.J., Nov. 29, 1993, at S16.

11. Jaye A. Silas, *Committing to a Goal*, BAR LEADER, July-Aug. 1993, at 2.

12. *Fewer Lawyers To-Be*, WALL ST. J., Sept. 8, 1993, at B5.

13. Dan Lee, *Class of '97 at UCLA Law is Most Diverse*, L.A. DAILY J., Dec. 19, 1994, at 1.

At Hastings College of the Law, 40% of the current student body (1994-95) is classified as "ethnic minority."¹⁴ Hastings has long prided itself on its diverse student body. For instance, its Legal Educational Opportunity Program (LEOP) is celebrating its 25th anniversary this year. The LEOP program recognizes the fact that not all people have the same preparation for law school, and admits students who have otherwise demonstrated ability for success in legal education.¹⁵

While the numbers of law students of color nationwide indicate a positive trend, they still do not reflect the racial mix of the general population. To increase non-white enrollment, diversity programs like those at U.C.L.A. and Hastings should be adopted across the country. Additionally, law schools need to actively recruit students with diverse backgrounds at colleges with high non-white enrollment, and hold regional "pre-law fairs" directed at students of color. Further, current students and alumni can be encouraged to participate in undergraduate "career days" and to act as mentors to promising undergraduates of all races.

Increasing racial diversity at the law school level is essential to fostering diversity in the profession as a whole, not only by virtue of graduating lawyers of color, but also by sensitizing all students to issues of bias. Such diversity will also contribute to a higher level of comfort across racial lines because those who graduate from ethnically mixed law schools will be more accustomed to sitting next to, interacting with, and working with persons of color.¹⁶

C. FACULTY: WOMEN

Despite advances in other areas of the legal profession, law school faculties remain the provinces of white males. In 1987, 94% of ABA-approved law school faculties were comprised of white men; and in 1990-91, that number was 91%.¹⁷ In 1967, women held just 1.7% of full-time tenure-track faculty positions. That number climbed to 7.5% by 1976 and to 16% in 1987.¹⁸ Women make up 33% of the tenured and tenure-track faculty, and 40% of the adjunct faculty, at Hastings College of the Law.¹⁹

Although women have gained entry to the male bastion of legal academia, they remain clustered at the bottom. Over 40% of clinical

14. Hastings College of the Law Admissions Brochure, 1994.

15. LEOP is not a racially based program. It includes, among others, persons with learning and physical disabilities, cultural and language differences, and economic disadvantages. Therefore, it is important to note that not all people of color are admitted under the LEOP program, and that not all LEOP students are people of color.

16. Steven Keeva, *Unequal Partners*, A.B.A. J., Feb. 1993, at 54.

17. Patton, *supra* note 10, at S16.

18. ABA Report, *supra* note 1. These numbers include non-ABA-approved institutions.

19. Hastings College of the Law Admissions Brochure, 1994.

instructors and more than 70% of writing instructors are female,²⁰ making these the female ghettos of legal education.²¹ By contrast, rare is the woman who reaches the top — the position of law school dean. In 1974, the five female deans in the country comprised 3% of all law school deans. That number decreased to one (only 0.1%) in 1981, but rebounded to ten (6%) by 1987.²² Currently, there are female deans at U.C. Berkeley's Boalt Hall School of Law, U.C.L.A. School of Law, and Hastings College of the Law.²³

Law school deans, whether male or female, can play an important role in fostering diversity in their schools. They can encourage faculty members to assign and discuss scholarly works dealing with ways in which sexism and racism are embedded in legal doctrines, texts, and courses. They can also examine criteria for, and racial or gender patterns in, the school's hiring and promotions practice, establish committees to address gender and racial bias and stereotyping, set out anti-bias rules with formal sanctions, define goals and standards, and educate each new generation of students and faculty regarding the institution's anti-discrimination stance.²⁴

Additionally, women faculty must support each other and set an example for students by speaking out regarding perceived incidents of bias in hiring, course or committee assignments, curriculum, or inter-faculty relations.²⁵

D. FACULTY: PEOPLE OF COLOR

As in other areas of the legal profession, people of color lag behind women in their representation on law school faculties. During the 1987-1988 academic year, of 11,713 total faculty at ABA-accredited schools, non-white males held 464 positions, and women of color held 255. By the 1990-91 school year, those numbers had grown to include 1,108 men of color and 452 non-white females out of a total of 12,562 positions.²⁶

The Hispanic legal community has made a concerted effort to increase its representation in academia, and its efforts are yielding results. With the hiring of twenty-two Hispanics in 1991, there was a 25% expansion of

20. Hastings College of the Law Admissions Brochure, 1994.

21. Terry Carter, *Women Face Hurdles as Professors*, NAT'L L.J., Oct. 24, 1988, at 1.

22. ABA Report, *supra* note 1.

23. When Mary Kay Kane, Hastings' fourteenth dean, was appointed in 1994, she became the first woman in the school's 116 year history to hold that position.

24. Sylvia A. Law, *Good Intentions Are Not Enough: An Agenda for Law School Deans*, 77 IOWA L. REV. 79, 85 (1991).

25. *Id.*

26. Patton, *supra* note 10, at S16-S17.

Hispanic full-time law professors nationwide.²⁷ The Hispanic National Bar Association publishes a list of "Dirty Dozen" law schools which are located in areas of large Hispanic populations but which have no full-time Hispanic faculty. This list has served as a powerful tool in prompting these schools to seek Hispanic candidates.²⁸

The Association of American Law Schools (AALS) encourages law schools to hold regional conferences to motivate attorneys of color to pursue teaching careers. Other strategies for law schools might include advertising aggressively in the legal press, especially to specialty bar association journals; directly contacting specialty bar associations and student groups; and reaching out to outstanding alumni and local practitioners of color — in essence, using "old-boy networks" in reverse.²⁹

Moreover, law schools can develop fellowships or mentoring programs in which promising candidates of diverse backgrounds can work under a senior professor, teach part-time, take classes, and pursue independent research and publishing projects. This would allow such candidates to gain the experience necessary to qualify for tenure-track positions — experiences from which they are typically excluded.³⁰

II. Workforce

A. WOMEN

In 1970, less than 5% of lawyers in the United States were female.³¹ That number rose to 12% by 1980, to 20% by 1990,³² and is projected to reach 33% by the year 2000.³³ It is encouraging that during the 1980s the number of women partners in the largest firms nearly tripled; on average, the 250 largest firms in the United States have eight or more female partners. However, approximately 87% of all law firm partners today are male and the number of female partners is increasing by only 1% per

27. Rex Bossert, *Making Strides in Public Interest Law, the Law Schools*, L.A. DAILY J., Jan. 10, 1992, at 1.

28. *Id.*

29. Bossert, *supra* note 27, at 8 (using the old-boy network in reverse is an attempt to be more inclusive and to create a new-person network in response to the traditionally exclusionary methods of networking).

30. See Rex Bossert, *Fellowship Aids Teacher*, L.A. DAILY J., Jan. 10, 1992, at 8 (discussing Stanford University's program which steers law students of color into academic careers by giving them time to develop their scholarship under faculty supervision).

31. ABA Report, *supra* note 1 (quoting figures from the U.S. Bureau of the Census and U.S. Department of Labor).

32. *Id.*

33. N.O. Stockmeyer, Jr., *Hail to the Chiefs: A Tribute to Women Chief Justices*, WOMEN LAW. J., Vol. 80, No. 4, Sept. 1994, at 9.

year.³⁴ At that rate, it will be a long time before women catch up and even longer before women are adequately represented in positions of real power and authority in the management of firms.³⁵

A major impediment to women gaining more power is that they lag behind their male counterparts in generating business. In many firms, the top rainmakers carry more weight in firm management and compensation — but, because the “old-boy network” is still alive and well, women tend to have fewer opportunities to meet potential clients and therefore tend not to be rainmakers.³⁶ To counter this situation, firms must make a conscious effort to provide rainmaking opportunities for all attorneys.

Retaining talented women lawyers is an additional problem. Even though large numbers of women enter the associate ranks every year, quite a few drop out of the race before reaching partnership.³⁷ As the saying goes, “the law is a jealous mistress” and both male and female lawyers must work extremely hard to be successful. But since society still places most of the burdens of child-rearing and homemaking on women, a life in the law is even harder on women than on men.³⁸

To recruit and retain women and allow them to play a vital role in the profession, law firms and corporations must develop more flexible models for career development. Legal employers routinely should offer such options as maternity/paternity leave, job sharing, part-time or flex-time schedules, telecommuting, and so forth.³⁹ But this is not enough; it is

34. *Women in the Law*, WALL ST. J., Apr. 17, 1995, at B7 (chart showing results of 1994 survey by the National Association for Law Placement).

35. Michael France, *Women Still Lag in Firm Leadership, Study Finds*, L.A. DAILY J., Sept. 22, 1993, at 1. A recent study by the California Women Lawyers' Bias Committee found that, in California, women constitute nearly 30% of attorneys, but less than 15% of law firm partners. Nine of the 50 firms surveyed had no women partners. Only approximately 11% of the attorneys serving on management and compensation committees are female. *Id.* at 3.

36. Donna K. H. Walters, *Barriers Still Persist, Women Lawyers Say*, L.A. TIMES, Mar. 10, 1994, at D1 (summarizing findings of Women Lawyers' Association of Los Angeles, Survey of Status of Women); Roundtable, *Straight Talk: Five at the Top Provide a Snapshot of How Women are Faring*, CAL. L. BUS., May 17, 1993, at 20, 22 [hereinafter Roundtable, *Straight Talk*]; Emily Couric, *Women in Large Firms: A High Price of Admission?*, NAT'L L.J., Dec. 11, 1989, at S2, S10 (summarizing results of *National Law Journal* survey of women attorneys across the country); Louise A. LaMothe, *For Women Lawyers, It's Still an Uphill Climb*, CAL. LAW., Sept. 1987, at 8, 9.

37. Laura Mansnerus, *Why Women are Leaving the Law*, WORKING WOMEN, Apr. 1993, at 64, 66.

38. See Couric, *supra* note 36, at S11 (chart “What Women Give Up”); Roundtable, *Straight Talk*, *supra* note 36, at 22-24; Excerpts from Demographic Survey of the State Bar of California, Final Report, Aug. 1991, at 7-10 (finding female members of the Bar were less likely to have children than their male counterparts (45% to 68%); more likely to be single than men (24% to 14%); and “considerably less likely” to be married (55% to 72%)).

39. Roundtable, *Straight Talk*, *supra* note 36, at 22-24; LaMothe, *supra* note 36, at 9; Joan H. Stern, *Female Talent at Law Firms*, NAT'L L.J., Mar. 8, 1991, at 15.

essential that these new career models and work options be accepted as viable and valuable alternatives to the hard-driving, single-minded race to partnership, so that women lawyers are not penalized for pursuing them.

B. PEOPLE OF COLOR

While women have far to go, on the whole, they are gaining entrance to the legal profession in greater numbers than people of color, both male and female. In 1970, fewer than 2% of the lawyers in the United States were non-white.⁴⁰ The number of non-white lawyers had increased to 2.9% by 1981,⁴¹ to 5.4% by 1989,⁴² and to 6.8% by 1992.⁴³

The largest 250 law firms in the United States have, on average, fewer than one African-American, Hispanic, Asian or Native American partner.⁴⁴ During the 1980's, the number of non-white partners in the largest firms almost doubled.⁴⁵ Despite this increase, however, the total number of African-American, Hispanic, Asian and Native American partners was only 2.4% in 1992.⁴⁶ According to a 1991 *National Law Journal* survey, forty-four of the largest 250 firms (17.6%) had no partners of color and sixty-one (24.4%) had only one.⁴⁷

There is concern that the troubled economy will further hinder the retention and progress of women and attorneys of color.⁴⁸ Because the largest percentage of female and non-white attorneys have been hired in the past five years,⁴⁹ they may be affected disproportionately by the layoffs of associates caused by the recession. In addition, lawyers of color face many of the same roadblocks to business development as do women. Both groups consequently are being hard hit by the trimming of

40. Claudia MacLachlan & Rita Henley Jensen, *Progress Glacial for Women, Minorities*, NAT'L L.J., Jan. 27, 1992, at 31; Rita Henley Jensen, *Minorities Didn't Share in Firm Growth*, NAT'L L.J., Feb. 19, 1990, at 1, 28.

41. Jensen, *supra* note 40, at 28.

42. *Id.*

43. MacLachlan, *supra* note 40, at 31.

44. MacLachlan, *supra* note 40, at 31; Jensen, *supra* note 40, at 28.

45. *Id.*

46. MacLachlan, *supra* note 40, at 31.

47. *Id.*

48. Yvonne Schibsted, *Associates Miss Out in "Year of the Woman"*, CAL. L. BUS., Nov. 9, 1992, at 21; Evantheia Schibsted, *Out in the Cold: Minority Attorneys are Last-Hired, First-Fired*, CAL. LAW., Apr. 1994, at 22; Nina Schulyer, *Fewer Women Attorneys Being Employed by Firms in Bay Area*, L.A. DAILY J., Nov. 4, 1994, at 3; Jessica Guynn, *Weak Economy Hits Female Attorneys Hard*, CAL. L. BUS., Dec. 7, 1992, at 22; Jessica Guynn, *Minorities Stay Slightly Ahead of the Recession*, CAL. L. BUS., Dec. 7, 1992, at 22; Katrina M. Dewey, *Women Still Face Obstacles*, CAL. L. BUS., Dec. 10, 1990, at 24; Rob Walker, *Numbers that Count*, AM. LAW., Oct. 1993, at 14.

49. Evantheia Schibsted, *supra* note 48, at 22; Gail Diane Cox, *New Lawyers: White Men Are In the Minority*, NAT'L L.J., Sept. 30, 1991, at 3. A 1991 State Bar of California study of lawyer demographics found that 51% of those in practice for five years or less were women, "ethnic minorities," or both.

“non-productive” partners, or are being passed over for promotion to partner.⁵⁰

What many firms fail to realize is that despite the current economic climate, there are bottom-line benefits to developing a diverse legal practice. Given the changing demographics of the U.S. population and the globalization of the legal profession,⁵¹ a policy of inclusion reflects reality. Expanding the candidate pool enhances a firm’s ability to attract and serve a broader client base. It raises the comfort-level of diverse client prospects who want attorneys “like them,” attorneys who speak their languages and understand their cultures, to handle their business.⁵²

C. DIVERSITY PROGRAMS

Over the past decade, formal and informal programs have been created and adopted by various bar associations, law firms, corporate counsel groups, and governmental bodies to promote diversity in the legal profession.

To increase the number of lawyers of color in major law firms, at least eight bar associations, including those of San Francisco, Los Angeles County, New York City, Chicago, and the District of Columbia, have adopted hiring goals.⁵³ In San Francisco these goals, accepted by almost 100 local law firms and corporations, call for 15% of associates and 5% of partners to be “minority” by 1995, and 25% of associates and 10% of partners to be “minority” by the year 2000.⁵⁴ In New York, more than 135 law firms and 40 corporations have accepted the goal that 10% of all new hires should be attorneys of color.⁵⁵ The Los Angeles County Bar Association’s policy, adopted by over thirty firms, also calls for 10% of the attorneys hired each year to be “minority.”⁵⁶

A number of these policies, however, have a caveat which significantly waters down their impact: they are “subject to the demographic availability

50. Evantheia Schibsted, *supra* note 48, at 22.

51. Lennie Copeland, *Valuing Workplace Diversity*, PERSONNEL ADMINISTRATOR, Nov. 1988; WORKFORCE 2000, U.S. LABOR DEPARTMENT (1987) (Based on Census Bureau and Bureau of Labor Statistics figures). See also Ann Crittenden, *Where Workforce 2000 Went Wrong*, WORKING WOMAN, Aug. 1994, at 18; Walker, *supra* note 48, at 14.

52. Don J. DeBenedictis, *Changing Faces: Coming to Terms with Growing Minority Populations*, A.B.A. J., Apr. 1991, at 54-58; *A Caste System*, CAL. L. BUS., Jan. 24, 1994, at 22; Copeland, *supra* note 51.

53. Silas, *supra* note 11, at 21.

54. Michael J. Hall, *S.F. Firms Near Minorities Goal*, L.A. DAILY J., Dec. 21, 1993, at 3; Edward A. Adams, *Minority Programs Succeed in N.Y.*, S.F., NAT’L L.J., Apr. 3, 1995, at A11; Raymond C. Marshall, *Minority Hiring and Advancement*, ON THE ROAD . . . AROUND THE BARS, (quarterly publication of the State Bar of California), Vol. 1, No. 2, Mar. 1994, at 6; Raymond C. Marshall, *Minority Hiring Made High Priority*, NAT’L L.J., Oct. 23, 1989, at S3.

55. Silas, *supra* note 11, at 21; Adams, *supra* note 54, at A11.

56. Silas, *supra* note 11, at 21.

of minority applicants and the hiring criteria of such firm or corporation."⁵⁷ Thus, firms can state that they wish to hire diverse candidates, yet avoid doing so by insisting that those candidates have graduated at the top of their class or be a member of the law review at one of the top 20 schools in the nation. Very few candidates, white or non-white, fit those criteria, which gives rise to the issue of holding candidates of color to a double or at least higher standard because they are more likely than other candidates to have been denied experiences and opportunities that would make them more "qualified."⁵⁸ An employer committed to hiring a diverse group of lawyers must re-evaluate its hiring criteria and determine whether other credentials, such as work experience and community leadership, might be equally indicative of excellence.

The American Bar Association Commission on Minorities in the Profession created the ABA Minority Counsel Demonstration Program ("Program") in 1988. The Program enlisted the assistance of corporate counsel at approximately 140 leading companies such as IBM, GM, GTE, Ford and Aetna Insurance, to inform law firms that these companies want attorneys of color to work on their matters,⁵⁹ thus helping to destroy the myth that corporate clients do not want to be represented by non-white lawyers. These corporate counsel also have written letters to their outside law firms urging that they hire and promote attorneys of color.⁶⁰ Similarly, the California Minority Counsel Program was established to provide equal opportunities for attorneys of color to compete for corporate legal work. The program encompasses 190 "minority-owned" law firms and ninety "majority" firms, as well as nearly sixty of California's largest businesses which have pledged to steer some of their legal work to the non-"majority" firms and attorneys.⁶¹

57. Marshall, *Minority Hiring Made High Priority*, *supra* note 54, at S3.

58. Fredrick H. Bates & Gregory C. Whitehead, *Do Something Different, Making a Commitment to Minority Lawyers*, A.B.A. J., Oct. 1990, at 78, 80; Jensen, *supra* note 40, at 29.

59. Richard B. Schmitt, *Programs Fail to Send a Majority of Work to Minority Owned Firms*, WALL ST. J., Jan. 21, 1994, at B6; Sidney A. Keyles, Willard I. Hill & Richard B. Groothuis, *Joint Ventures: Minority and Majority Firms*, A.B.A. J., Oct. 1990, at 80.

60. DeBenedictis, *supra* note 52, at 57-58. Harry Pearce, General Counsel of General Motors Corporation, wrote to more than 700 outside law firms in February 1988 "to be certain that minority lawyers in your firm able to provide service at the requisite level be included among those who represent GM." His second letter, in May 1989, requested that firms "let us know the names of the minority lawyers in your firm who have either worked on GM matters or might do such work in the future. We would like to meet them." Other corporations, such as Wells Fargo Bank, Motorola Inc., and the FDIC, have sent similar letters.

61. Roundtable, *Diverse Opinions*, CORP. COUNSEL, Feb. 16, 1995, at 30; Michael J. Hall, *Minority Counsel Organization Sees Mixed Record of Success*, L.A. DAILY J., Oct. 21, 1994, at 3; Stephanie Francis Cahill, *Many Departments are Emphasizing Diversity*, CAL. L. BUS., Oct. 10, 1994, at 20.

In addition, the federal government has established quotas for a certain amount of its work to be given to "minority- and female-owned" firms.⁶² This has resulted in a number of "joint ventures" between "majority" and "female- or minority-owned" law firms. There is concern, however, that this may lead to the development of parallel law firms, segregated along racial and gender lines.⁶³

D. EXPANDED HIRING

To hire more women and attorneys of color, legal employers must expand the sources from which they draw candidates. They can do this by making contacts with and seeking recommendations from specialty bar associations, and judges who may recommend former clerks, law school placement directors and female and non-white faculty members, campus organizations for women and people of color; and specialty committees and sections of non-specialized national, state and local bar associations. Legal employers might send representatives to job fairs which are targeted to people of color, and sponsor, or co-sponsor with other interested firms, programs or receptions for female and non-white students and potential lateral hires. Employers also could encourage firm members, not necessarily female or people of color, to act as mentors for non-white or female students either directly or through a bar association program. The point is to treat all candidates equally, not make non-white, male candidates jump through more hoops which could, in intent or effect, be an exclusionary practice.

To further expand and diversify the candidate pool, on-campus recruiting efforts should include law schools with high female and racially mixed enrollment. The firm's current non-white and women attorneys should be involved in all stages of the interviewing process. All interviewers must be trained to be sensitive to inappropriate questions, comments, and activities, and to communicate a sincere commitment to diversity. All candidates should be asked the same questions, and requested to provide the same documentation such as law school transcripts, writing samples, and references.

E. WORK ENVIRONMENT

After hiring, legal employers must take steps to retain, develop, and promote female and non-white attorneys in order to maximize their contributions to the firm. At a minimum, it is essential that these attorneys be given the same opportunities and resources as other lawyers in the

62. Roundtable, *Women and Minority Lawyers Still Face Stumbling Blocks*, CORP. LEGAL TIMES, Jan. 1994, at 40, 50.

63. *Id.*

organization. All attorneys must be given equal access to challenging work assignments, professional skills training, client contact, business development opportunities, social interaction with peers and partners, and meaningful evaluations and feedback. The firm should ensure the fair and equal allocation of resources, such as secretarial and support staffing, office services, overtime, research materials, and so forth, to all of its attorneys, regardless of their gender or race.⁶⁴

Beyond that, employers should take additional steps to foster diversity in their ranks. Firms can demonstrate a commitment to diversity from the top down by integrating in-house management, committees, and task forces, and by holding management accountable for the development and promotion of women and people of color. The lack of role models often is cited as a critical reason for the underrepresentation of women and people of color in the profession.⁶⁵ A firm can help create positive role models by placing female attorneys and attorneys of color in high-visibility and influential roles within the organization's management structure. Mentoring is also an effective strategy toward fostering role models.⁶⁶

Social events often play an important role in an attorney's career advancement. These events should not be held in discriminatory clubs or any other venue where an attorney might be uncomfortable. Firms should not be involved in entertainment or activities which could be offensive to any of their members. At social occasions, a firm can make a point of inviting female and racially diverse clients, prospective clients, co-counsel, judges, and public figures. This will help dispel the image of the "old-boy network."

To retain women and non-white attorneys, a firm must create a hospitable environment. Each attorney must be treated as an individual. Often, for example, African-American male attorneys complain of being confused with other African-American males, Hispanic females with other Hispanic females, and so on.⁶⁷ It is imperative not to impute the attributes of one in a group to all members of that group.⁶⁸ Furthermore, female

64. See Joel F. Henning, *New Approach Needed in Training of Women: There's a Difference*, *Studies Say*, NAT'L L.J., Oct. 1, 1984, at 15.

65. Raymond C. Marshall, *The Minority Attorney: Climbing a Career Path Littered with Many Obstacles*, CAL. LAW., Sept. 1993, at 66-68.

66. Joan M. Haratani, *On Recruiting and Retaining a Diverse Workforce*, THE BOTTOM LINE (publication of the State Bar of California Law Practice Management Section), Vol. 16, No. 1, Mar. 1994, at 12-13; Couric, *supra* note 36, at S10. See D.M. Osborne, *Changing the Notion that Minorities Need Not Apply*, AM. LAW., Oct. 1989, at 32; Margaret M. Morrow, *Equal Opportunity in the Legal Profession*, L.A. LAW., Feb. 1989, at 4-6 (discussing the establishment of Practicing Attorney/Law Students Program (PALS) in New York and Los Angeles).

67. Bates & Whitehead, *supra* note 58, at 82-84.

68. *Id.* at 84.

and non-white support staff must be treated well, and not necessarily be paired with female and non-white attorneys.

Additionally, legal employers should accommodate religious or cultural holidays, dietary restrictions, and dress requirements as far as possible within the business context. In a diverse world, it is not sufficient to treat all people the same; rather, all people should be treated fairly, with respect for their differences.

Conclusion

Women and people of color have gained entry to the legal world, but for them to progress — both in academia and in law practice — it will take conscious sensitivity to the issues facing these groups, some of which they have in common, and some of which are unique to women or people of color. The progress achieved thus far should not produce complacency about the problems which remain. More must be done to recruit, develop, and promote young female and non-white attorneys so that they can reach their full potential and contribute to the leadership of the profession. A small investment now in time, effort, and money in the recruiting, training, and mentoring of female and non-white law students, faculty, and practitioners can reap great dividends for the individual attorneys, their institutions, and the profession as a whole for generations to come.

